

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NOTIS GLOBAL, INC., f/k/a
MEDBOX INCORPORATED,

Plaintiff,

Case No. 13-cv-14775
Hon. Matthew F. Leitman

v.

DARRYL B. KAPLAN *et al.*,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS’
MOTION FOR SUMMARY JUDGMENT (ECF #89)**

In this action, Plaintiff Notis Global, Inc., formerly known as Medbox Incorporated, brings claims against Darryl B. Kaplan, Claudio Tartaglia, Eric Kovan, and Medvend Holdings, LLC (collectively, “Defendants”) arising out of a Membership Interest Purchase Agreement (the “Agreement”) entered into by the parties on March 12, 2013.

Plaintiff filed its Third Amended Complaint (the “TAC”) on February 19, 2016. (*See* ECF #81.) Defendants thereafter filed a motion for summary judgment (the “Motion”). (*See* ECF #89.) Plaintiff responded to the Motion on October 3, 2016. (*See* ECF #92.) Defendants replied to Plaintiff’s response on October 20, 2016. (*See* ECF # 100.)

The claims in the TAC are as follows: Count One alleges breach of contract; Count Two alleges conversion; Count Three alleges violation of the Michigan Uniform Securities Act (MUSA); Count Four alleges fraudulent concealment and/or silent fraud; Count Five alleges negligent misrepresentation; Count Six alleges violation of the Arizona Consumer Fraud Statute, ARS §44-1522; Count Seven seeks rescission of the contract between the parties; Count Eight seeks a declaratory judgment that “Medvend [Holdings, LLC] must return \$300,000 lent to [Plaintiff] under the Agreement.”

The Court held a hearing on the Motion on November 16, 2016. For the reasons explained on the record at the hearing, the Motion is **GRANTED IN PART** and **DENIED IN PART**. Specifically, the Motion is **GRANTED** as to Counts Two, Six, Seven, and Eight and the claims in those Counts are **DISMISSED**. In addition, the Motion is **GRANTED** as to any claims in Count Four and Count Five that relate to the March 8, 2013, inspection report issued by the State of Michigan Department of Licensing and Regulatory Affairs and/or any representations by Defendants that they were in compliance with the law.¹ Such claims are hereby **DISMISSED**. The Motion is **DENIED** as to Count One and Count Three. The Motion is also **DENIED** as to any claims in Count Four and

¹ In other words, the Court dismisses all misrepresentation or fraud tort claims that involve what the Court referred to at the hearing as the “Pharmacy Issue.”

Count Five that relate to Defendants' alleged misrepresentations regarding whether they had the authority to consummate the transaction memorialized in the Agreement.²

Accordingly, the following claims remain for trial:

1. Plaintiff's breach of contract claim in its entirety (Count I);
2. Plaintiff's fraud and misrepresentation claims related to what the Court referred to at the hearing as the "Envy-Tech" issue (Counts IV and V);
and
3. Plaintiff's claim under the MUSA.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: November 17, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 17, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113

² In other words, the Court denies summary judgment for Plaintiffs' misrepresentation and fraud claims that relate to what the Court referred to at the hearing as the "Envy Tech" issue.